



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, ID 83706 • (208) 373-0502
www.deq.idaho.gov

Brad Little, Governor
John H. Tippetts, Director

August 13, 2020

Subject: Docket 20-0302-2001 Mined Land Reclamation negotiated rulemaking – Draft #9 Comments

Dear Mr. Wilson:

DEQ appreciates the opportunity to provide comments on Draft Rule 9 regarding Rules Governing Mined Land Reclamation. The following comments are intended to help further discussions as DEQ and IDL coordinate on implementing the various legal authorities granted by Title 47 Chapter 15 Idaho Code and Title 39 Idaho Code.

To help further the development of a robust set of rules, DEQ submits the attached comments for consideration.

Sincerely,

A handwritten signature in blue ink that reads "Mary Anne Nelson".

Mary Anne Nelson, PhD
Administrator, Surface and Wastewater Division

c: Michael McCurdy, Administrator Waste and Remediation Division, DEQ
Dana Swift, Remediation Bureau Chief, DEQ
Jerri Henry, Administrator, Drinking Water Protection and Finance Division, DEQ
Lisa O'Hara, deputy Attorney General
Mark Cechini-Beaver, deputy Attorney General

Attachment

Comment 1 – 069.05 Reclamation Plan Requirements

Although the Idaho Department of Lands indicated that the types of facilities regulated under subsection 069 (quarries, decorative stone, building stone, aggregate) typically don't impact ground water, there was an acknowledgment that on occasion such facilities can impact ground water. In addition, there is a caveat of 'likely to be impacted' associated with the requirement, so for instances where ground water would not likely be impacted, the reclamation plan would not need to address ground water impacts. Therefore, based on the possibility that any mining facility may impact ground water, DEQ requests that 'surface waters' be changed to 'state waters' as highlighted in yellow below. This change would also be supported where subsection 070.04 references back to subsection 069.05 for reclamation plan requirements; allowing for instances where ground water impacts would be more likely for facilities regulated under subsection 070.

Page 9 of draft 9. Section 069.05. Reclamation Plan Requirements. Reclamation plans must be submitted in map and narrative form and include the following:

a. Where **surface waters-state waters** are likely to be impacted ~~and or~~ when requested by the director, documents identifying and assessing foreseeable, site-specific ~~nonpoint~~ sources of water quality impacts ~~upon adjacent surface waters and the BMPs the operator will use to control such impacts during surface mining and reclamation from mining operations and proposed management activities, such as BMPs or other measures and practices, to comply with water quality requirements;~~

Comment 2 – 070.04.h Reclamation Plan Requirements

DEQ requests the addition of 'meeting applicable surface and ground water quality standards' as highlighted in yellow below.

Page 11 of draft 9. Section 070.04.h. A description of post-closure activities. that includes the proposed length of the post-closure period and the following:

i. A summary of procedures and methods for water management **meeting applicable surface and ground water quality standards,** including any likely IPDES permit, stormwater permit, and monitoring required for any ground water point of compliance, along with sufficient information to support a cost estimate for such water management activities.

Comment 3 – 140.09 Tailings Facilities

DEQ requests the addition of the yellow highlighted text below. The "hazard" standard would not necessarily prevent a situation where tailings abandonment creates a violation of water quality standards. A rule requiring compliance with standards at the time of tailings abandonment should help ensure water quality standards are met.

Page 37 of draft 9, Section 140.09. Tailings ~~Impoundments~~ Facilities. All tailings ~~ponds~~, dams, or other types of tailings ~~impoundments~~ facilities shall be designed, constructed, operated, and decommissioned so that upon their abandonment, the dam and impoundment area will **meet applicable surface and ground water quality standards and** not ~~otherwise~~ constitute a hazard to human or animal life.

From: mary.anne.nelson@deq.idaho.gov
To: [Rule Making](#)
Cc: Michael.McCurdy@deq.idaho.gov; Dana.Swift@deq.idaho.gov; Jerri.Henry@deq.idaho.gov; Lisa.O'Hara@deq.idaho.gov; Mark.Cecchini-Beaver@deq.idaho.gov
Subject: Comments on IDL 20-0302-2001 Draft #9
Date: Thursday, August 13, 2020 9:59:10 AM
Attachments: [image001.png](#)
[image002.png](#)
[2020-0813 IDL Draft9 Comments.docx](#)

Good morning,

Attached please find DEQ's comments on the most recent draft of 20-0302. Thank you and please contact me at the number below if you have any questions.

Sincerely,



Mary Anne Nelson, PhD | Administrator
Surface and Wastewater Division
Idaho Department of Environmental Quality
1410 N. Hilton
Office: (208) 373-0291
<http://www.deq.idaho.gov/>
Mary.Anne.Nelson@deq.idaho.gov

Our mission is to protect human health and the quality of Idaho's air, land, and water.